

☑ **Explore all your options: a checklist**

Before you enter into any viatical settlement transaction, you should:

- ☐ Contact your life insurer to learn about all of your possible options under your policy, such as accelerated benefits. It could pay you a substantial portion of your policy's death benefit without selling your policy to a third party. Also ask if there is any cash value in your policy. You may be able to use some of the cash value to meet your immediate needs and keep your policy in force for your beneficiaries. You may also be able to use the cash value as security for a loan from a financial institution.
- ☐ Contact a licensed viatical settlement broker or licensed viatical settlement provider for information about viatical settlements.
- ☐ Consult with your own financial adviser who knows your personal financial needs. Be sure to ask about tax and other financial consequences if you sell your policy. Contact a professional tax adviser to find out the tax implications. Proceeds are only tax-free under certain circumstances.
- ☐ Contact the Kentucky Department of Insurance at 800-595-6053 for information about current laws that may protect you.

Other things to consider

- ☐ Know that your creditors could claim the proceeds.
- ☐ Find out if you will lose any Medicaid benefits.
- ☐ Find out if you will lose any public assistance benefits.
- ☐ Know that you must provide certain medical and personal information to third parties who will receive the proceeds from your policy upon your death. These third parties may sell your policy and pass along your medical and personal information to other individuals.

Consumer tips

- ◆ Understand how the process works and when the different phases will happen.
- ◆ Decide whether to sell your policy directly to a viatical settlement provider or go through a viatical settlement broker who will do the comparison shopping for you.
- ◆ If you don't use a viatical settlement broker, comparison shop on your own.
- ◆ You don't have to accept any viatical settlement offer.
- ◆ Check all application forms for accuracy, especially information about your medical history.
- ◆ Be truthful in your answers to the application questions.
- ◆ Make sure the viatical settlement provider agrees to put your settlement proceeds in escrow with an independent third party custodial bank to make sure your funds are safe during transfer.
- ◆ Find out if you have the right to change your mind about the viatical settlement offer after you get the money. In Kentucky, you have the right to stop the transaction within a certain period of time. If you decide not to continue with the deal, you will have to return the money you were paid and any premiums the buyer gave to the life insurance company.
- ◆ Understand whether buyers may learn your identity when they buy your policy and whether they will know certain medical and personal information about you, such as your address and life expectancy.

Consumer alert

Be cautious if you are:

- ◆ asked to invest in or buy a viatical settlement contract;
- ◆ interested in selling your life insurance policy and want more information; or
- ◆ contacted by someone who wants you to buy a life insurance policy and then immediately sell that policy as a viatical settlement transaction.

Additional questions to consider

Do I still need life insurance protection?

If I sell my policy, how will they decide how much cash I get?

If I sell my policy, will there be any costs I have to pay?

If I sell my policy, will the money be put in an escrow account? If so, who will the escrow agent be?

Is the viatical settlement broker licensed in Kentucky?

Is my policy an employer or other group coverage? If so, do I need their permission to sell it?

If I sell my policy, who will be the legal owner?

Is the viatical settlement provider licensed in Kentucky?

After I sell my policy, can the buyer resell it?

Steps required by law in Kentucky

Kentucky law requires the following steps when you enter into a viatical settlement contract:

1. A written statement from a licensed attending physician that you are of sound mind and under no pressure to complete this transaction.
2. A witnessed document in which you:
 - a. *consent to the viatical settlement contract;*
 - b. *acknowledge any catastrophic or life threatening illness;*
 - c. *state that you fully understand the viatical settlement contract;*
 - d. *fully understand the benefits of your life insurance policy;*
 - e. *release your medical records; and*
 - f. *acknowledge that you entered into the viatical settlement contract freely and voluntarily.*
3. Make a choice as to whether or not you wish to be notified each time your policy is sold to a new owner.

To learn more, call the
Kentucky Department of
Insurance at 800-595-6053
or the TTY line at
800-462-2081.
Visit our website at
<http://doi.ppr.ky.gov>.

Kentucky Consumer Guide to Understanding Viaticals



Kentucky Department of Insurance
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Consumer Hotline: 1-800-595-6053
Life Division: 502-564-6071
TTY: 1-800-462-2081
<http://doi.ppr.ky.gov>



Defining the terms

A **viatical settlement** occurs when a person sells his or her life insurance policy to a third party. The owner of the policy sells the policy for a cash payment that is less than the full amount of the death benefit.

A **viatical settlement provider** is the person or company who buys the life insurance policy. The viatical settlement provider becomes the new owner and/or beneficiary of the policy, pays all future premiums and collects the death benefit when the insured dies.

A **viatical settlement purchase agreement** is the contract or agreement in which the viatical settlement buyer agrees to purchase all or a portion of the life insurance policy.

The **viatical settlement broker** arranges the deal between the seller of the life insurance policy and the viatical settlement buyer. The broker would typically use a viatical settlement purchase agreement.

The person selling the life insurance policy is the **viator**. He or she will get a cash payment from the settlement. This person gives up ownership of the policy in return for a cash payment less than the full amount of the death benefit.

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Understanding viatical settlements

A viatical settlement is the sale of a life insurance policy to a third party. The owner of the life insurance policy sells it for a cash payment that is less than the full amount of the death benefit. The buyer becomes the new owner and/or beneficiary, pays all future premiums and collects the full amount of the death benefit when the insured dies.

Be sure you fully understand viatical settlements before you make any decisions.

benefit when the insured dies.

People decide to sell their life insurance policies for many reasons. An individual with a terminal or chronic illness may sell a policy in order to pay medical bills. Other reasons for selling may include changed needs of dependents, wanting to reduce premiums or needing to raise cash for expenses.

A viatical settlement may or may not be the right choice for you. The Kentucky Department of Insurance, along with the National Association of Insurance Commissioners, is concerned that many consumers may not fully understand viatical settlements. Please continue reading before making any decisions.